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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.												
10/560,057	12/08/2005	Rainer Glauning	3527	9833												
7590 Striker Striker & Stenby 103 East Neck Road Huntington, NY 11743		09/18/2007	<table border="1"><tr><td colspan="2">EXAMINER</td></tr><tr><td colspan="2">ONEILL, KARIE AMBER</td></tr><tr><td>ART UNIT</td><td>PAPER NUMBER</td></tr><tr><td>1745</td><td></td></tr><tr><td>MAIL DATE</td><td>DELIVERY MODE</td></tr><tr><td>09/18/2007</td><td>PAPER</td></tr></table>		EXAMINER		ONEILL, KARIE AMBER		ART UNIT	PAPER NUMBER	1745		MAIL DATE	DELIVERY MODE	09/18/2007	PAPER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/560,057	Applicant(s) GLAUNING ET AL.	
	Examiner Karie O'Neill	Art Unit 1745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>1-13-06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-4 are pending in this office action.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d) or (f), which papers have been placed of record in the file.

Information Disclosure Statement

3. Information disclosure statement (IDS), submitted January 13, 2006, as been received and considered by the examiner.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to the examiner what "form-locking fashion" means. Are locks or some type of fastening mechanism involved? Is it an actual shape?

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by Shimma et al. (US 6,566,005 B1).

With regard to Claim 1, the instant claim is drawn to a battery pack comprising, heat-diffusing means from a plurality of battery cells located in a housing, characterized in that the wall of the housing surrounding the battery cells is shaped such that it forms at least one duct, which is closed off from the interior of the housing, for a heat-diffusing medium. Shimma et al. discloses in Figures 2 and 5, a battery pack (1) comprising heat-diffusing means from a plurality of battery cells (14) locating in a housing made of an outer enclosure (2) housing an inner case (13), characterized in that the wall of the housing (13) surrounding the battery cells (14) is shaped such that it forms at least one duct or air passage (24, 25) which is closed off from the interior of the housing (2). The inner case (13) sits inside of the housing (2), closing it off from the interior of the housing (2). The phrase "for a heat-diffusing medium" imparts intended use to the structural features of the ducts. Therefore, while it has been considered, it is not given patentable weight. While features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. *In re Schreiber*, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997). A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not

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differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987).

With regard to Claim 2, the instant claim is drawn to the at least one duct is shaped such that its wall rests in form-locking fashion against the battery cells adjacent to it. Shimma et al. discloses in Figure 5, wherein the duct (25) is shaped such that its wall rests against the battery cells adjacent to it. Radiator plates (22) conform to the projections and recesses of the corresponding surfaces of each row of cells (14) forming the perimeter of the cell groups (14) and forming the perimeter of the duct or second air passage (25) (column 5 lines 44-55).

With regard to Claim 3, the instant claim is drawn to the wall regions that form the at least one duct at least partly comprise a heat- conducting material. Shimma et al. disclose in Figure 5, wherein the wall regions comprised of radiator plates (22) that form duct (25) at least partly comprise a heat-conducting material. The radiator plates (22) are formed so as to conform to the protrusions and recesses of the outer surfaces of the cell groups, providing contact with the cells (14), causing heat generated by the cells to be transferred evenly to the radiator plates (22), reducing irregularity in the cooling effect of the cells (column 9 lines 3-8).

With regard to Claim 4, the instant claim is drawn to the wall regions of the at least one duct that comprise a heat-conducting material are recessed so far from the outer wall regions of the housing that contact with the heat-conducting material by a user is prevented. Shimma et al. discloses in Figure 5, the wall regions or radiator

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plates (22) of the at least one duct (25) are recessed so far from the outer wall regions of the housing (2) that contact with the heat conducting material of the radiator plates (22) by the user is prevented.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karie O'Neill whose telephone number is (571) 272-8614. The examiner can normally be reached on Monday through Friday from 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Karie O'Neill
Examiner

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KAO


PATRICK JOSEPH RYAN
ADVISORY PATENT EXAMINER